

The following slides were presented to SEA's leadership in September 2012 in response to their request for information regarding the Workers' Compensation process.

The presentation identified differences between the City's Workers' Compensation benefits and what is provided by State law.

Workers' Compensation Overview

Workers' Compensation

- Medical care and income replacement benefits for workplace injuries that are
 - Arising out of employment and
 - In the course of employment
 - (AOE/COE)

Beginning of Claim

- Three possible results:
 - Accepted
 - Denied
 - Delayed. More investigation is required to determine if the claim will be accepted. Employer will pay up to \$10,000 in medical care during this period. Third party administrator has 90 days to make a determination.

Delayed Claims

- Reasons for delayed claims
 - Questions if the injury is actually work-related
 - Red flags such as late reporting of the injury
 - Psychological injuries

Claims Administration

- Many employers simply purchase insurance, and the insurance company handles all workers' compensation issues.
- City is self-insured and uses a third party administrator (TPA) to handle claims.
- TPAs are audited by the state and must follow all workers' compensation laws.
- WC adjusters must be certified.

Authority

- Workers' compensation is governed by the California Labor Code (and some Government Code)
- Administered by the Department of Industrial Relations.

Temporary Disability (TD)

- 2/3 of income up to a weekly maximum of \$1,010.50.
- Time limits based on date of injury:
 - 01/01/79 – 04/18/04: 240 weeks of TD that must be used within 5 years of the date of injury.
 - 04/19/04 – 12/31/07: 104 weeks of TD that must be used within 2 years of the first payment.
 - After 01/01/08: 104 weeks of TD that must be used within 5 years of the date of injury

Claim Process

- Employee must inform supervisor of injury immediately
- Time off for TD will not be approved unless the employee is seen by a doctor and put off work by the doctor (or employer is unable to provide modified duty). That is, employee cannot just call in sick for a work-related injury.

Medical Control

- The employer controls medical care for the first 30 days. That is, the employee must see a doctor selected by the employer.
- Employee can pre-designate a doctor. It must be the employee's regular doctor who maintains the employee's medical records, and the doctor must agree to be the pre-designated doctor for workers' compensation purposes.

Medical Control

- Employee can change treating physician after 30 days.
- Employee can only have one primary treating physician (PTP) at a time. Other specialists might be involved, but the PTP is responsible for all reports.

Permanent Disability

- If an employee has an permanent disability at the end of a workers' compensation claim, they may be eligible for permanent disability payments.
- Based on body part injured and percentage of impairment. Determined by doctors and tables.

Medical/Legal Evaluations

- Qualified Medical Examination (QME) – no lawyer.
- Agreed Medical Examination (AME) – employees represented by lawyer.
- Specialized doctors who make evaluations on AOE/COE issues, permanent work restrictions, permanent disability ratings. Typically used when there is disagreement among the parties or the issues are complex.

Psychological Injuries (“Stress” Claims)

- Require investigation and will almost always be put on delay.
- Often go to AME/QME.
- Not eligible if based on a good faith personnel action (work direction, supervision, performance evaluations, discipline, etc.)
- The majority of the causes of the condition must arise from work. (For example, someone with depression might be depressed while at work, but it doesn't mean the depression was caused by work.)

How Claims End

- Permanent and Stationary (P&S) / Maximal Medical Improvement (MMI)
- Release to work full duty, no restrictions, discharged from care.
- Release to work full duty with a provision for future medical care.
- Release to work with permanent work restrictions (triggers disability interactive process)

How Claims End

- There may or may not be permanent disability at the end of a claim. This results in monetary payments.
- Disability rating does not always equate to inability to do job. An employee with a 10% rating might have work restrictions that prevent them from doing their job. Another employee with a 50% rating might be released to work with no work restrictions.

How Claims End

- Stipulated Findings and Award (“Stip”). Employee agrees to permanent disability rating, and it usually includes a provision for future medical care. Resolves all issues of the claim including TD, PD and medical care.
- Compromise and Release (C&R). Complete settlement of the claim, closing it for good. Employee accepts a financial payout in exchange for the future medical care.

Workers' Compensation for SEA in Sunnyvale

- No waiting period. Normally, TD has a 3-day waiting period. WC benefits start right away for eligible employees.
- 90 days of salary continuation. 100% of salary for time eligible for TD. Follows TD rules. Employee must be eligible for TD to be eligible for salary continuation
- Time off for medical appointments. WC law only provides for paid time off for the initial appointment. Employees must use their own time for other appointments.